

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6162

BILL NUMBER: SB 29

NOTE PREPARED: Oct 29, 2010

BILL AMENDED:

SUBJECT: Child Solicitation.

FIRST AUTHOR: Sen. Head

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- A. It makes it child solicitation, a Class C felony, for a person who is at least 21 years of age to: (1) knowingly or intentionally solicit a child less than 14 years of age, or an individual the person believes to be a child less than 14 years of age, to engage in sexual intercourse, deviate sexual conduct, or any fondling or touching intended to arouse or satisfy the sexual desires of either the child or the older person; and (2) perform an overt act demonstrating an intent to physically meet the child.
- B. It makes the offense: (1) a Class B felony if it is committed by means of a computer network; and (2) a Class A felony if it is committed by means of a computer network by a person who has a prior conviction for child solicitation by means of a computer network.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Summary-* The Department of Correction (DOC) is estimated to need new beds beginning in FY 2012. The following table shows that the projected number of new beds needed above the current DOC capacity would level off in FY 2014.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2015
New Beds Needed	3	11	18	18	18
x Cost per Bed	\$12,775	\$12,775	\$12,775	\$12,775	\$12,775
Added Costs	\$38,325	\$140,525	\$229,950	\$229,950	\$229,950
Note: The added cost per bed is based on the added offenders that would be placed in jails due to the full capacity in DOC facilities. The added costs per bed is \$35 per day x 365 days per year					

Background and Analysis— Under current law, there is no requirement that a person actually complete the act of meeting with his or her victim to commit the crime of child solicitation. This bill would create new penalties when a person over the age of 21 solicits a child younger than 14 years of age and performs an overt act to physically meet the victim. The following table shows these proposed changes.

Current and Proposed Penalties for Child Solicitation			
<u>Circumstance of the Crime</u>	<u>Current Law</u>		<i>Proposed*</i>
If adult is	older than 18	older than 21	<i>older than 21*</i>
and child is	younger than 14	older than 14 and younger than 16	<i>younger than 14</i>
and the adult.....			
..... solicits the child	D Felony	D Felony	<i>C Felony*</i>
..... solicits using a computer network	C Felony	C Felony	<i>B Felony*</i>
..... solicits using a computer network with a prior soliciting offense using a computer network	B Felony	B Felony	<i>A Felony*</i>
<i>*person would also have to perform an overt act demonstrating an intent to physically meet the child to qualify for the higher penalty</i>			

DOC's Offender Information System does not distinguish between the age of the victims, so LSA assumes that, at the most, half of the offenders committed to DOC were convicted of soliciting children under the age of 14.

The following table shows the number of offenders who have been committed to DOC for child solicitation between CY 2007 and 2009.

Offenders Committed to DOC for Child Solicitation by CY				
	2007	2008	2009	3-Year Average
C Felony	17	17	12	15.3
D Felony	9	8	12	9.7
Grand Total	26	25	24	25

Since these offenders would have to be older than 21 years of age to receive this enhancement, LSA examined the age of these offenders at the time of commitment. LSA found one offender committed in 2008

who was 20.5 years of age (who's victim was presumably younger than 14). All other offenders who were committed to DOC for child solicitation would have received the enhanced sentence.

Offenders Committed to DOC for Child Solicitation Between 2007 and 2009 by Age Distribution	
Younger Than 21	1
Between 21 and 25	5
Between 25 and 30	14
Between 30 and 35	12
Between 35 and 40	9
Older than 40	34
Total Offenders Committed	75

To estimate the added number of beds that would be needed, LSA calculated the length of stay of all felony offenders who were released from DOC facilities in CY 2007 through 2009

Offenders Released Between CY 2007 and CY 2009		
Felony Class	Number of Offenders	Average Time Served in Years
B Felony	10,648	2.5
C Felony	14,217	1.2
D Felony	25,333	0.5

Using the average number of offenders committed to DOC between CY 2007 and CY 2009, an average of 15 Class C felony offenders and 10 Class D felony offenders, all over 21 years of age, were committed to DOC each year for the crime of child solicitation. No offenders were committed for Class B felonies under this section. *LSA assumes that half of the offenders who were over the age of 21 would be affected by this bill.*

Felony Level	Average Number of Offenders Affected	Current Length Of Stay *	New Length of Stay *	Added Time in Prison
C Felony	7.5	1.2	2.5	1.3
D Felony	5	0.5	1.2	0.7
* Length of stay is measured in years				

The sentencing court may suspend the sentence of the offender so that the person could avoid prison time and be assigned to probation, community corrections, or some other form of community supervision. These offenders would be required to register as sex offenders with the local law enforcement agency.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOC.

Local Agencies Affected:

Information Sources: DOC Offender Information System.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.